

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION No 1683 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SHANTABEN WD/O KALAJI KAMJAJI NINAMA

Versus

SURYAKANTBHAI BRAMBHATT

Appearance:

MR JV JAPEE for Petitioners
SERVED BY DS for Respondent No. 1
MR HARDIK C RAWAL for Respondent No. 2
MS LILU K BHAYA for Respondent No. 5

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 21/11/97

ORAL JUDGEMENT

1. By way of this Misc. Civil Application u/S. 24 of the Code Civil Procedure read with sec. 166(2) of the Motor Vehicles Act, 1988 the petitioners seek to have their Motor Accident Claim Petition No. 976 of 1990 pending before the M.A.C. Tribunal, Surat to be

transferred to the M.A.C.Tribunal at Himatnagar.

2. It is not in dispute that the accident in question had taken place within the territorial jurisdiction of the M.A.C. Tribunal at Surat. It is also not in dispute that number of claim petitions have been filed by the different claimants and the same have been arising out of the same accident. It is finally not in dispute that the respondents nos. 3 and 4 are residing within the territorial jurisdiction of the M.A.C. Tribunal at Surat. Under such circumstances transfer of one claim petition out of number of claim petitions arising from the same accident would result into adjudication of the claims arising out of the same accident by two different Tribunals. The witnesses would have to be examined at two different places in respect of the same accident. It is, therefore, clear that there will be unnecessary hardship caused to number of people. This is apart from the fact that there might be conflict of decisions between the two Tribunals. Hence, it would neither be just and proper nor expedient to transfer the claim petition in question as prayed for in this petition. However, in order that the petitioners might not come across unnecessary hardship, following directions are issued :-

The petitioners are set at liberty to pray before the Tribunal to fix date for the recording of their evidence so that they may not have to frequently go to Surat for that purpose. As and when such an application is moved by the petitioners before the learned Tribunal, the same shall be dealt with and decided, bearing in mind the observations made in this order, after hearing the otherside.

Subject to what is stated above, rule is discharged with no order as to cost.

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PVR